

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1606

Bill Subtitle: REGARDING THE SUSPENSION OF PERMITS FOR A RETAILER'S FAILURE TO PAY A WHOLESALER OR MANUFACTURER FOR TOBACCO PRODUCTS, VAPOR PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR E-LIQUIDS; AND FOR OTHER PURPOSES.

Basic Change:

Sponsors: Rep. J. Moore and Sen. Flippo

HB1606 requires retailers permitted by Arkansas Tobacco Control ("ATC") to timely remit payment for purchases of tobacco, other tobacco products, vapor products, alternative nicotine products, and e-liquids to wholesalers and manufacturers permitted by ATC and creates a compliance mechanism for the payments.

Under the bill, manufacturers and wholesalers are required to report delinquent retailers to ATC. ATC is then required to notify all permitted manufacturers and wholesalers that the retailer is delinquent and that the other permitted manufacturers and wholesalers may not make any further sales to the retailer until the retailer has cured the deficiency. ATC is given the option to carry out short term suspensions of the retailer's permit and require cash payment for future purchases of product to guarantee future compliance. HB1876 also requires new owners of permitted retailers to assume unpaid debt of the previous owner if it is unpaid at the time of the purchase. The Director of ATC and the Arkansas Tobacco Control Board may promulgate rules to implement the bill.

Revenue Impact:

Under Arkansas Code Annotated § 26-57-255(g)(3)(C), the Arkansas Tobacco Control Board may levy a civil penalty not to exceed five thousand dollars (\$5,000) for each violation against a retailer, manufacturer, or wholesaler. Collected civil penalties are submitted to the General Revenue Fund.

Taxpayer Impact:

A retailer delinquent in payment to a wholesaler may be subject to suspension of the retailer's permit, civil penalties up to \$5,000 per violation, as well as prohibited from continuing to purchase product and prohibited from using tender other than cash.

Wholesalers and Manufactures may be subject to suspension of permit and civil penalties up to \$5,000 per violation for failing to report within five (5) days a retailer's payment being past due or returned for insufficient funds.

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Resources Required:

ATC rules would need to be promulgated. Holders of tobacco permits would need to be educated. ATC anticipates that the following additional staff would be required:

- Two (2) agents at \$100,000 each for the first year (includes salary, benefits, as well as any necessary vehicles or equipment); and \$50,000 for each agent each additional year.
- One (1) administrative support person \$40,000.

Time Required:

Adequate time is provided for implementation.

Procedural Changes:

Hearing procedures to contest proposed administrative action would need to be established.

Department employees will need to be educated and trained as well as the permittees. ATC's records management system will need to be updated.

Other Comments:

None.

Legal Analysis:

None.